

#5

Express Mail No.: EL 501 637 132 US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Brines et al.

Serial No.: 09/716,960

APR 10 2001

Group Art Unit: To be assigned

Filed: November 21, 2000

Examiner: To be assigned

For: MODULATION OF EXCITABLE TISSUE
FUNCTION BY PERIPHERALLY
ADMINISTERED ERYTHROPOIETIN

Attorney Docket No.: 10165-009-999

INFORMATION DISCLOSURE STATEMENT
UNDER 37 C.F.R. § 1.56 and § 1.97

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This application is a divisional of U.S. Serial No. 09/547,220, filed April 11, 2000, which claims benefit of U.S. provisional application no. 60/118,030, filed April 13, 1999 (expired).

In accordance with the continuing duty of disclosure imposed by 37 CFR § 1.56 to inform the Patent and Trademark Office of all references coming to the attention of each individual associated with the filing or prosecution of the subject application, which are or may be material to the patentability of any claim of the application, Attorneys for Applicants hereby direct the Examiner's attention to the references AA to CL listed on the attached revised form PTO 1449. Pursuant to 37 C.F.R. §1.98(d), copies of these references are available in the file of U.S. Serial No. 09/547,220 and are not provided herewith.

While not to be construed as indicating that the Examiner should not review and consider fully all the listed references, Applicants particularly direct the Examiner's attention to references AH, AR, AZ, BA, BG, BH, BQ, BV, CG, and CH.

Identification of the listed references is not to be construed as an admission of Applicants or Attorneys for Applicants that such references are available as "prior art" against the subject application. Consequently, Applicants respectfully decline to use form PTO-1449, since this form identifies all of the references cited therein as "Prior Art." As an alternative, Applicants submit herewith a "revised form PTO 1449" entitled "List of References Cited" instead of "List of Prior Art Cited."

Applicants respectfully request that the Examiner review the foregoing references and that the references be made of record in the file history of the application.

Pursuant to 37 CFR § 1.97(b), since this Information Disclosure Statement is being filed before the mailing date of a first Office Action on the merits, it is submitted that no fee is due in connection herewith. However, should the Patent and Trademark Office determine otherwise, please charge the required fee to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Respectfully submitted,

by Eileen E. Fahay 46.097

Date: February 21, 2001

Laura A. Coruzzi 30,742
Laura A. Coruzzi (Reg. No.)

PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, New York 10036-2711
(212) 790-9090